

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

STATE OF OKLAHOMA, ex rel.)
W. A. DREW EDMONDSON, in his capacity as)
ATTORNEY GENERAL OF THE STATE OF)
OKLAHOMA and OKLAHOMA SECRETARY)
OF THE ENVIRONMENT C. MILES TOLBERT,)
in his capacity as the TRUSTEE FOR NATURAL)
RESOURCES FOR THE STATE OF OKLAHOMA,)

Plaintiff,)

vs.)

05-CV-0329 GKF-SAJ

TYSON FOODS, INC., TYSON POULTRY, INC.,)
TYSON CHICKEN, INC., COBB-VANTRESS, INC.,)
AVIAGEN, INC., CAL-MAINE FOODS, INC.,)
CAL-MAINE FARMS, INC., CARGILL, INC.,)
CARGILL TURKEY PRODUCTION, LLC,)
GEORGE’S, INC., GEORGE’S FARMS, INC.,)
PETERSON FARMS, INC., SIMMONS FOODS, INC.,)
and WILLOW BROOK FOODS, INC.,)

Defendants.)

**DEFENDANT, PETERSON FARMS, INC.’S JOINDER IN CARGILL
DEFENDANTS’ MOTION TO COMPEL PRODUCTION OF RESPONSIVE ESI**

Defendant, Peterson Farms, Inc. (“Peterson Farms”), hereby joins in and adopts the Cargill Defendants’ Motion to Compel Production of ESI (Dkt. #1261) and requests an Order of the Court compelling Plaintiffs to produce electronically stored information (“ESI”) responsive to the discovery responses served on Plaintiffs by Peterson Farms throughout the course of this lawsuit. In support of its joinder, Peterson Farms further states as follows:

1. Peterson Farms has served the following sets of discovery on Plaintiffs:
 - a. Separate Defendant Peterson Farms, Inc.’s March 30, 2007 Interrogatories and Requests for Production of Documents served on March 30, 2007;

- b. Separate Defendant Peterson Farms, Inc.'s First Set of Requests for Production of Documents to Oklahoma Conservation Commission served on or about September 18, 2006;
- c. Separate Defendant Peterson Farms, Inc.'s First Set of Requests for Production of Documents to Oklahoma Department of Environmental Quality served on or about September 18, 2006;
- d. Separate Defendant Peterson Farms, Inc.'s First Set of Requests for Production of Documents to Oklahoma Scenic Rivers Commission served on or about September 18, 2006; and
- e. Separate Defendant Peterson Farms, Inc.'s First Set of Requests for Production of Documents to Oklahoma Water Resources Board served on or about September 18, 2006.

2. The foregoing discovery requests define the "documents" sought through the respective requests as follows:

"Document(s)" shall be used in its broadest sense as defined in Fed. R. Civ. P. 34 (a), and shall mean and include all written, printed, typed, record or graphic matter of every kind and description, both originals and copies and all attachments and appendices thereto. "Documents" includes all data that exists in electronic and magnetic form. If documents responsive to these Requests exist in electronic or magnetic form, you are requested to identify the specific format and software requirements for retrieval of such data or information.

This definition contained clearly contemplates that Plaintiffs will produce ESI responsive to Peterson Farms' discovery requests.

3. Notwithstanding that Peterson Farms has requested documents and ESI from Plaintiffs that differ from those sought by the other Defendants in this matter, Peterson Farms has experienced the same issues set forth in the Cargill Defendants' Motion: it has received the same collective ESI produced to all other Defendants without regard to its specific and unique discovery requests and the ESI has not, in all cases, been produced in a readily usable or accessible format.

4. Accordingly, for the reasons set forth in the Cargill Defendants' Motion, Peterson Farms seeks the following relief from the Court:

- a. In all circumstances where Plaintiffs have produced ESI "collectively" to all Defendants in native format, Plaintiffs must provide the specific search queries, information and technical support that would allow Peterson Farms to ascertain the ESI provided in response to its specific discovery requests; and
- b. Plaintiffs produce the responsive ESI in the databases at OWRB and OCC in a reasonably usable format that, in the case of native format production, shall include specific queries, information and technical support which will allow Peterson Farms to ascertain the ESI provided in response to its specific requests.

WHEREFORE, Defendant Peterson Farms, Inc. requests the Court grant the Cargill Defendants' Motion to Compel Production of ESI (Dkt. #1261) and Peterson's joinder therein, awarding the foregoing relief.

Respectfully submitted,

By /s/ Philip D. Hixon

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CERTIFICATE OF SERVICE

I certify that on the 17th day of September, 2007, I electronically transmitted the attached document to the Clerk of Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to the following ECF registrants:

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I also hereby certify that I served the attached documents by United States Postal Service, proper postage paid, on the following who are not registered participants of the ECF System:

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